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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
SPOKANE DIVISION

ALEX MCVICKER and MARK  
MOSS, individually and on behalf of  
all others similarly situated,

Plaintiff(s),

v.

GIGA WATT, INC.; GIGAGWATT  
PTE LTD.; CRYPTONOMOS PTE.  
LTD.; DAVE CARLSON; LEONID  
MARKIN; and EDWARD  
KHAPTAKHAEV,

Defendants.

RAYMOND BALESTRA,  
individually and on behalf of all others  
similarly situated,

Plaintiff,

v.

GIGA WATT, INC., ET AL,

Defendants.

No. 2:18-cv-00103-SMJ  
(Consolidated with No. 2:18-cv-00100)

**CONSOLIDATED CLASS ACTION  
COMPLAINT FOR VIOLATION  
OF THE FEDERAL SECURITIES  
LAWS**

CLASS ACTION

CONSOLIDATED CLASS ACTION  
COMPLAINT - 1  
(No. 2:18-cv-00103-SMJ)

BRESKIN | JOHNSON | TOWNSEND PLLC  
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1           Lead Plaintiff Alex McVicker (“McVicker” or “Lead Plaintiff”), along with  
2 additional plaintiff Mark Mass (“Moss”) (collectively “Plaintiffs”), individually  
3 and on behalf of all other individuals and entities similarly situated, by their  
4 undersigned attorneys, allege in this Consolidated Class Action Complaint for  
5 violations of Sections 12 and 15 of the Securities Act of 1933 (the “Securities  
6 Act”), the following, based upon knowledge with respect to their own acts, and  
7 upon facts obtained through an investigation conducted by their counsel, which  
8 included, *inter alia*: documents and solicitation materials released by Defendants  
9 (defined below), in connection with the Giga Watt Project (defined below), and  
10 public statements made by Defendants concerning the Giga Watt ICO. Plaintiffs  
11 believe that further substantial evidentiary support will exist for the allegations set  
12 forth herein after a reasonable opportunity for discovery. Many of the facts  
13 supporting the allegations contained herein are known only to Defendants or are  
14 exclusively within their control.

## 15                   **I.       NATURE AND SUMMARY OF THE ACTION**

16           1.       This is a class action on behalf of a class of investors consisting of all  
17 individuals and entities who transferred any fiat currency or cryptocurrency to  
18 Giga Watt, Inc., GigaWatt Pte. Ltd. (collectively, “Giga Watt”) or Cryptonomos  
19 Pte. Ltd. (“Cryptonomos”) in connection with the Giga Watt Project (defined  
20

below) between May 19, 2017, and October 2, 2018, and who suffered financial injury as a result thereof.

2. This action alleges violation of Sections 12(a)(1) and 15(a), 15 U.S.C. §§ 77l(a)(1), 77o(a), of the Securities Act against Giga Watt; Cryptonomos; Dave Carlson (“Carlson”); Leonid Markin (“Markin”); and Edward Khaptakhaev (“Khaptakhaev”) and together with Marking and Carlson, the “Individual Defendants”) (collectively, “Defendants”).

3. Specifically, Defendants raised over \$30 million in bitcoin (“BTC”), Ether (“ETH”), and fiat currencies as capital to develop a network of cryptocurrency mining facilities across the state of Washington (the “Giga Watt Project”). Defendants raised this capital by offering and selling unregistered investment contract securities in the form of Giga Watt Tokens (“WTT Tokens”) from approximately May 19, 2017 through July 31, 2017 (the “Giga Watt ICO”) and nonexistent, or non-functioning, cryptocurrency mining machinery and services (the “Miners”) from approximately May 19, 2017 through October 2, 2018, in direct violation of the Securities Act.

4. The Giga Watt Project was marketed and sold on the Internet as a future purported full-service, turnkey processing center to house high-capacity cryptocurrency mining equipment in the state of Washington that would provide

1 miners a “full range of mining services from hosting, maintenance, and repair to  
2 private blockchain servicing.”

3         5. Defendants described the “Giga Watt Project” as a partnership  
4 between Giga Watt, Inc. and Giga Watt Pte. Ltd., pursuant to which Giga Watt,  
5 Inc. would provide, *inter alia*, “turnkey mining services” and solutions, and Giga  
6 Watt Pte. Ltd. would sell mining equipment used in Giga Watt’s mining facilities.  
7 These mining facilities are what Giga Watt calls “Giga Pods,” which purportedly  
8 “take[] advantage of the mining hardware's extremely high power density,  
9 avoid[ing] active cooling consumption, and sav[ing] power for high-efficiency  
10 mining, thus minimizing costs in every aspect of mining operations.” The state of  
11 Washington was chosen as the site of the Giga Watt Project because, *inter alia*, it  
12 has one of the lowest electricity costs to consumers in the world.

13         6. Defendants also solicited investors by claiming that, hand-in-hand  
14 with hosting and maintaining mining equipment, Defendants would provide  
15 interested investors – for a separate investment of cryptocurrency – “purchase and  
16 delivery of mining equipment [and related power supplies] through [Giga Watt,  
17 Pte Ltd.] with its subsequent setup and hosting at Giga Watt’s facilities in  
18 Wenatchee, WA.”

1           7. Defendants made extensive efforts to solicit investors by stressing  
2 Giga Watt's purported cost-effective mining services and touting various income-  
3 generating uses for the WTT Tokens and the Miners that investors in the Giga  
4 Watt Project were expected to receive in exchange for their investments.

5           8. For each investment of cryptocurrency or fiat currency in the Giga  
6 Watt Project, the investor would be given either: (a) WTT Tokens, or (b) a  
7 contract for Miners and related power supplies to be set up, deployed and  
8 maintained by the Giga Watt team at Giga Watt's facilities in Washington.

9           9. Defendants marketed the WTT Token as an Ethereum-based  
10 cryptocurrency/digital currency which would purportedly provide the "right to use  
11 the Giga Watt processing center's capacity, rent-free for 50 years, to accommodate  
12 1 Watt's worth of mining equipment power consumption." Additionally,  
13 Defendants claimed that the WTT Tokens would provide investors with the  
14 exclusive right to the "purchase and delivery of mining equipment through  
15 [GigaWatt Pte. Ltd.] with its subsequent setup and hosting at Giga Watt's  
16 facilities in Wenatchee, WA."

17           10. In connection with the Giga Watt ICO and offer and sale of Miners,  
18 Defendants released a White Paper which described various aspects of Giga  
19 Watt's business model and purported benefits to purchasing WTT Tokens and/or  
20

1 Miners. For example, the Giga Watt White Paper claimed that WTT Tokens  
2 would derive their value from the functionality, usefulness, efficiency, and  
3 availability of the “Giga Watt Project”.

4 11. Essentially, participants in the Giga Watt ICO and purchasers of  
5 Miners were given nothing more for their investments than the future right to  
6 receive, on some anticipated date, a number of WTT Tokens or Miners that would  
7 then provide the opportunity to make a return on their investment by: (1) earning  
8 income from utilizing Giga Watt’s Miners; (2) receiving discounts for using the  
9 Miners through their purchase of WTT Tokens; (3) trading WTT Tokens on  
10 cryptocurrency/digital currency exchanges for a profit; or (4) renting out WTT  
11 Tokens to other digital currency miners so as to receive rental income.

12 12. Rather than immediately deliver the WTT Tokens or Miners the  
13 investors purchased, Defendants decided to issue WTT Tokens in stages  
14 coinciding with their release of Miners. That is, a specific batch of WTT Tokens  
15 was to be issued when, or if, Giga Watt was able to successfully develop new  
16 Giga Pods containing Miners. For example, the White Paper stated that the first  
17 batch of WTT Tokens, amounting to 5.4 million WTT Tokens, was issued on  
18 August 7, 2017, whereas new batches of tokens were to be issued “in step with the  
19 construction of new facilities.”

1           13.    Giga Watt ICO investors have been left with little more than the right  
2 to receive WTT Tokens or Miners at some undefined point in time which would  
3 supposedly allow them access to Giga Watt's yet-to-be-fully-developed mining  
4 services. In truth, investors have been left with even less than this expectation  
5 given Defendants' October 1, 2018, announcement of "restructuring and policy  
6 changes" setting forth a "two-part plan to save the company in the short term" by  
7 ceasing construction of new facilities, laying off the majority of the Company's  
8 employees, and essentially abandoning the Giga Watt Project altogether.

9           14.    To further entice investors to invest in the Giga Watt Project,  
10 Defendants made various claims to the public that the value of Giga Watt Tokens  
11 was set to significantly increase and thus, they should invest sooner rather than  
12 later. For example, Giga Watt tweeted on June 13, 2017, "[j]ust 3 days left till  
13 token prices increase! The new price will be \$1.05 per token. Make sure to  
14 purchase before Friday." Similarly, on June 15, 2017, Cryptonomos posted on the  
15 Bitcoin Forum: "Just 1 day until WTT token price goes up! The new price will be  
16 \$1.05 per token. Make sure to purchase before 12:00PM Pacific on Friday, June  
17 16." Thus, investors were led to believe that they would receive a profit simply by  
18 investing early.

1           15. By touting its “competitive services” and claiming that Giga Watt’s  
2 “effective electricity cost” was, *inter alia*, “among the lowest feasible,” Giga Watt  
3 was able to attract a significant amount of investors with promises that they would  
4 be part of a successful enterprise and “exclusive club” which would provide  
5 miners a “full range of mining services from hosting, maintenance, and repair to  
6 private blockchain servicing.”

7           16. From May 19, 2017 through June 2, 2017, Defendants ran the Giga  
8 Watt ICO “pre-sale,” which had a minimum investment threshold of 10,000 Giga  
9 Watt Tokens, with each WTT Token costing between \$1 and \$1.2, depending on  
10 the date of acquisition. Within the first three days of the Giga Watt ICO, Giga  
11 Watt’s first two batches of WTT Tokens, equivalent to approximately \$6.3  
12 million, purportedly sold out, with each WTT Token representing 1 megawatt  
13 (“MW”) of future use. By June 28, 2016, Giga Watt had raised approximately  
14 \$11.8 million, more than 30% of its \$30 million goal, with over a month left to go  
15 in the Giga Watt ICO.

16           17. Defendants made sure to construct the ICO to align their financial  
17 interests alongside the interests of WTT Token purchasers. Specifically, Giga  
18 Watt insiders were to receive 10 WTT Tokens, and partners and advisors were to  
19 receive 5 WTT Tokens, for every 100 WTT Tokens sold in the Giga Watt ICO.



1 While Defendants have represented that the WTT Tokens to be dealt out to  
2 company insiders would be disbursed only when there are no token holders that  
3 have not received their WTT Tokens due to Giga Pods and Miners having not  
4 been completed yet, Plaintiffs are uncertain as to whether Defendants have indeed  
5 honored such commitment. Moreover, as to the WTT Tokens to be distributed to  
6 partners and advisors, the White Paper stated that such distribution would be “on a  
7 case by case basis.” Thus, Defendants made sure to reserve the right to pay out  
8 WTT Tokens to their affiliates despite the fact that numerous investors have been  
9 left waiting for the issuance of their WTT Tokens by Giga Watt.

10 18. Defendants offer and sale of WTT Tokens and Miners was a clear  
11 offer and sale of securities because, *inter alia*, Plaintiffs, and other similarly  
12 situated investors: (i) invested money; (ii) into a common enterprise (the Giga  
13 Watt Project); and (iii) with the expectation of receiving Miners and/or or WTT  
14 Tokens which would purportedly provide investors access to a functional and  
15 successful Miners, thereby allowing them to mine various cryptocurrencies for a  
16 profit and their WTT Tokens to increase in value and produce substantial returns.  
17 Additionally, the failure or success of the Giga Watt Project was entirely  
18 dependent on Defendants’ managerial efforts.

1           19.     Furthermore, Defendants have even referred to token purchasers as  
2 “investors.” For example, during an interview with *Bitcoin Magazine*, when  
3 asked, “[a]re you still planning an ICO for Giga Watt? If so, will this be a  
4 registered security,” Carlson replied, “[w]e’ve been working very hard to come up  
5 with a product or service that gives **anyone — not just accredited investors** —  
6 access to our blockchain processing facility infrastructure.” (emphasis added).

7           20.     Although Defendants stated that their goal was “to offer the token  
8 holders access to both an exciting new world of technology and the  
9 cryptocurrency mining business” which included “access to Giga Watt’s facility at  
10 unprecedentedly low hosting rate[s],” most investors have not received the  
11 promised Miners they purchased let alone the WTT Tokens in the timeframe  
12 represented in the White Paper and Giga Watt’s solicitation materials. Moreover,  
13 the Miners that have been delivered utterly fail to perform as advertised and have  
14 not provided investors with the expected profit from mining cryptocurrencies.

15           21.     Given the fact that Defendants have been unsuccessful in creating the  
16 Miners, or “Giga Pods,” they promised, the WTT Tokens that Plaintiffs and the  
17 Class purchased in the ICO have not represented the value or income-generating  
18 properties that investors believed they were purchasing.

1           22.    The Securities Act's registration requirements are designed to protect  
2 investors by ensuring they are provided adequate information upon which to base  
3 their investment decisions. Absent registration, issuers of securities are able to  
4 tout their investment opportunities with no supervision or regulation whatsoever.  
5 For example, an issuer could omit any information that would make a potential  
6 investor think twice before investing (*e.g.*, conflicts of interest or major setbacks  
7 to core product lines) or peddle its securities using unbounded exaggerations  
8 regarding the progress of its products, business plan, business strategies, or even  
9 fabricate the existence of relationships with vendors or other business partners.

10           23.    Due to the varied and innumerable ways in which investors can be,  
11 and are likely to be, manipulated and harmed absent any of the protections under  
12 the federal securities laws, Sections 5 and 12(a)(1) of the Securities Act provide  
13 for strict liability against any person who offers or sells an unregistered security.  
14 As detailed herein, the offer and sale of WTT Tokens and Miners was, and has  
15 been at all times, an offer and sale of unregistered securities and thus, Defendants  
16 are strictly liable under Section 12(a)(1) of the Securities Act.

17           24.    Importantly, proof of Defendants' calculated deprivation of  
18 investors' rights and protections under the federal securities laws is not required or  
19 determinative as to Plaintiffs' claim. This is because Defendants are liable simply  
20

1 by virtue of having offered and sold unregistered securities to Plaintiffs and the  
2 proposed class. Nevertheless, Defendants' clear intentional attempt to circumvent  
3 registration requirements under the Securities Act are outlined herein to stress the  
4 urgency and need for immediate judicial intervention to preserve Plaintiffs' and  
5 other investors' significant financial interests which Defendants currently control,  
6 and to rectify existing and future irreparable harm to Plaintiffs and Giga Watt  
7 Project investors. For these reasons, Plaintiffs, on behalf of themselves and all  
8 similarly situated Giga Watt Project investors, seek compensatory, injunctive, and  
9 rescissory relief, which would provide rescission and repayment of all investments  
10 into the Giga Watt Project, as well as secure and conserve such funds until  
11 repayment.

## 12 **II. JURISDICTION AND VENUE**

13 25. This Court has subject matter jurisdiction under 28 U.S.C. § 1367  
14 (supplemental jurisdiction), 28 U.S.C. § 1331 (federal question jurisdiction) and  
15 Section 22 of the Securities Act (15 U.S.C. § 77v) because Plaintiffs allege  
16 violations of Sections 12(a)(1) and 15(a) of the Securities Act.

17 26. This Court has personal jurisdiction over each of the Defendants  
18 because each has sufficient minimum contacts with this District as to render the  
19  
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1 exercise of jurisdiction by this Court permissible under traditional notions of fair  
2 play and substantial justice.

3 27. Venue is proper in this District under Section 22 of the Securities  
4 Act, 15 U.S.C. § 77v, as well as under 28 U.S.C. § 1391, because: (a) the conduct  
5 at issue took place and had an effect in this District; (b) a substantial portion of the  
6 transactions and wrongs complained of herein occurred here; and (c) Defendants  
7 have received substantial compensation and other transfers of money here by  
8 doing business here and engaging in activities having an effect in this District.

### 9 III. PARTIES

#### 10 A. Plaintiffs

##### 11 1. *Lead Plaintiff – McVicker*

12 28. On June 28, 2018, this Court appointed McVicker to serve as Lead  
13 Plaintiff for the class in this class action pursuant to the Private Securities  
14 Litigation Reform Act of 1995.

15 29. McVicker is an individual domiciled in Windsor, California and is  
16 sui juris. Lead Plaintiff expended 5.05 Ethereum (“ETH”) in the Giga Watt ICO to  
17 purchase 1,876 WTT Tokens and invested an additional 2.3207119 BTC and  
18 268.1 Litecoin (“LTC”) in the Giga Watt Project to purchase 10 Miners – more  
19 specifically, 10 Antminer D3 Dash miners – from Defendants, and has suffered  
20

1 financial harm as a result of Defendants' alleged offer and sale of unregistered  
2 securities detailed herein.

3 30. To make his investments, Plaintiff McVicker placed his purchases  
4 through the Cryptonomos platform -- a Singapore-based online platform through  
5 which all payments for WTT tokens were collected and through which all WTT  
6 tokens were to be issued and distributed by Defendants to Giga Watt investors --  
7 from Plaintiff McVicker's home in California and followed the instructions  
8 provided.

9 **2. Plaintiff Moss**

10 31. Plaintiff Moss is an individual domiciled in San Clemente, California  
11 and is *sui juris*. Between June 2, 2017 and August 21, 2017, Plaintiff Moss  
12 transmitted to Defendants 9.785386 bitcoin, 322.605305 Ether, 4,056.28 Litecoin,  
13 and \$241,890.00 (USD) in fiat currency as his investments in Giga Watt, broken  
14 down thusly: (a) 3.513386 bitcoin and 322.605305 ether invested for the  
15 disbursement of 60,282 WTT tokens, and (b) 6.272 bitcoin, 4,056.28 Litecoin, and  
16 \$241,890.00 (USD) for 129 Antminer D3 machines, 60 L3+ machines, related  
17 power supplies, and deployment/setup fees.

18 32. To make his investments, Plaintiff Moss placed his purchases  
19 through the Cryptonomos platform -- a Singapore-based online platform through  
20

1 which all payments for WTT tokens were collected and through which all WTT  
2 tokens were to be issued and distributed by Defendants to Giga Watt investors –  
3 from Plaintiff Moss’s home in California and followed the instructions provided.

4 33. Although Plaintiff Moss was supposed to receive his Batches 3 and 4  
5 WTT by September 2017 and was supposed to have his 129 Antminer D3 and 60  
6 L3+ machines up-and-running at the Giga Watt Project in the same general  
7 timeframe if not soon thereafter, no such issuance took place by those dates.

8 34. Plaintiff Moss presented to Defendants several written demands that  
9 Plaintiff Moss’s investments in Giga Watt be addressed and/or rescinded by Giga  
10 Watt – a demand that Plaintiff Moss repeated on numerous occasions, including a  
11 March 1, 2018 demand written on Plaintiff Moss’s behalf by undersigned counsel.

12 35. As of the date of this filing, Defendants have failed to provide a  
13 meaningful response to Plaintiff Moss’s demand and instead seem intent on  
14 merely stalling for time despite having violated the terms of their own White  
15 Paper and having refused to adhere to their own terms for an investor remedy.

16 36. Plaintiff Moss has suffered financial harm as a result of Defendants’  
17 alleged offer and sale of unregistered securities detailed herein.

1 **B. Defendants**

2 ***1. The Corporate Defendants***

3 37. Defendant Giga Watt, Inc. is a Washington corporation that was  
4 incorporated on December 15, 2016 and has its principle place of business on 1  
5 Campbell Pkwy, East Wenatchee, Washington 98802. Recent events have  
6 revealed that the company is saddled with debt and seems to be nearing  
7 insolvency.

8 38. Defendant GigaWatt Pte. Ltd. is a privately held, foreign for-profit  
9 corporation that was incorporated on March 29, 2017, and which maintains its  
10 headquarters at 1 Coleman Street #08-07, Adelphi, Singapore. GigaWatt Pte. Ltd.  
11 sells mining equipment to customers worldwide. Such mining equipment was  
12 installed and hosted at Giga Watt, Inc.'s mining facilities. Upon information and  
13 belief, GigaWatt Pte. Ltd. is a subsidiary of Giga Watt, Inc.

14 39. Defendant Cryptonomos Pte. Ltd. is a foreign, for-profit corporation  
15 that was incorporated on September 20, 2016, and which maintains its  
16 headquarters at 1 Coleman Street #08-07, Adelphi, Singapore. Cryptonomos  
17 operates as a crowd funding platform for entities that wish to conduct initial coin  
18 offerings. Cryptonomos participated in the sale of WTT Tokens in connection



1 with the Giga Watt ICO by soliciting investors. Moreover, purchases of WTT  
2 Tokens were made by investors through the Cryptonomos' Website.

3 40. Upon information and belief, Cryptonomos is an affiliate of Giga  
4 Watt, Inc., as Cryptonomos maintains the same business address and suite number  
5 as Giga Watt Pte. Ltd.

6 **2. *The Individual Defendants***

7 41. Defendant Carlson is one of the founders of Giga Watt. Carlson  
8 served as the Company's Chief Executive Officer ("CEO") until August 2018.  
9 Upon information and belief, Carlson controlled Defendant Giga Watt, Inc. and  
10 Defendant GigaWatt Pte. Ltd. at all relevant times. Carlson actively promoted the  
11 sale of WTT Tokens in the Giga Watt ICO through interviews and presentations  
12 to the public and acted as the head of the Giga Watt Project in connection with the  
13 Giga Watt ICO.

14 42. Defendant Markin is believed to be domiciled in California. Markin  
15 is one of the founders of Giga Watt and Cryptonomos. Markin's official title with  
16 both entities is "Financial management" which presumably is the equivalent of  
17 Chief Financial Officer ("CFO"). Prior to his present role as a self-proclaimed  
18 "blockchain investor," Markin was a professional poker player. Through his  
19 ownership in, and control over, Giga Watt and Cryptonomos, Markin orchestrated  
20

1 Giga Watt’s unlawful offer and sale of unregistered investment contract securities  
2 in the form of WTT Tokens and the Miners.

3 43. Defendant Khaptakhaev is one of the founders of Giga Watt and  
4 Cryptonomos. Khaptakhaev serves as Legal Counsel for Cryptonomos and “VP of  
5 Sales” for Giga Watt. Through his ownership in, and control over, Giga Watt and  
6 Cryptonomos, Khaptakhaev orchestrated Giga Watt’s unlawful offer and sale of  
7 unregistered investment contract securities in the form of WTT Tokens and the  
8 Miners.

9 **3. *Other Liable Persons/Entities***

10 44. In addition to those persons and entities set forth as Defendants  
11 herein, there are likely other parties who may well be liable to Plaintiffs, but for  
12 whom Plaintiffs currently lack specific facts to name such person or persons as a  
13 party defendant. By not naming such persons or entities at this time, Plaintiffs are  
14 not waiving their right to amend this pleading to add such parties, should facts  
15 develop to warrant adding such parties in the future.

16 **IV. CLASS ACTION ALLEGATIONS**

17 45. Plaintiffs bring this action individually and on behalf of all  
18 individuals and entities who invested in the Giga Watt Project by transferring any  
19 fiat currency or digital currency to Giga Watt or Cryptonomos to purchase WTT  
20

1 Tokens or Miners between May 19, 2017 and October 2, 2018 and who suffered  
2 financial injury as a result thereof (the “Class”). Excluded from the Class are  
3 Defendants herein and any person, firm, trust, corporation, or other entity related  
4 to, controlled by, or affiliated with, any Defendant.

5 46. This action is properly maintainable as a class action under Federal  
6 Rule of Civil Procedure 23.

7 47. While the exact number of Class members is presently unknown to  
8 Plaintiffs and can only be ascertained through discovery, Plaintiffs believe that  
9 there are thousands of members in this Class. All members of the Class may be  
10 identified by records maintained by Defendants and may be notified of the  
11 pendency of this action by mail, using forms of notice similar to that customarily  
12 used in securities class actions.

13 48. There are questions of law and fact which are common to the Class  
14 and which predominate over questions affecting any individual Class member.  
15 The common questions include, *inter alia*, the following: (i) whether Defendants  
16 offered and sold unregistered securities in violation of the federal securities laws;  
17 (ii) whether Plaintiffs and other Class members will suffer irreparable harm if  
18 such securities laws violations are not remedied; and (iii) whether the Class is  
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1 entitled to compensatory, injunctive, and/or rescissory relief as a result of  
2 Defendants' wrongful conduct as alleged herein.

3 49. Plaintiffs' claims are typical of the claims of the other members of  
4 the Class, and Plaintiffs do not have any interests adverse to the Class.  
5 Additionally, Plaintiffs and the other members of the Class have all sustained  
6 harm in a substantially identical manner as a result of Defendants' wrongful  
7 conduct as alleged herein.

8 50. Plaintiffs will fairly and adequately protect the interests of the Class  
9 and have retained competent counsel experienced in litigation of this nature.

10 51. The prosecution of separate actions by individual members of the  
11 Class would create a risk of inconsistent or varying adjudications with respect to  
12 individual members of the Class, which could establish incompatible standards of  
13 conduct for Defendants.

14 52. Plaintiffs anticipate that there will be no difficulty in the management  
15 of this litigation. A class action is superior to other available methods for the fair  
16 and efficient adjudication of this controversy.

17 53. Defendants have acted on grounds generally applicable to the Class  
18 with respect to the matters complained of herein, thereby making appropriate the  
19 relief sought herein with respect to the Class as a whole.

54. Accordingly, Plaintiffs seek compensatory, rescissory, injunctive, and other equitable relief on behalf of themselves and the Class to prevent the irreparable injury they will continue to suffer absent judicial intervention

## V. SUBSTANTIVE ALLEGATIONS

### A. Background on Cryptocurrencies and Blockchains

55. Bitcoin is a type of “cryptocurrency” – also commonly referred to as “digital currency” or “virtual currency.” The Financial Action Task Force, an inter-governmental agency that promotes laws combating anti-money laundering, and in which the United States is a member, describes cryptocurrency as a “digital representation of value that can be digitally traded and functions as (1) a medium of exchange; and/or (2) a unit of account; and/or (3) a store of value, but does not have legal tender status . . . in any jurisdiction.” Importantly, cryptocurrencies do not have legal tender status like fiat currencies (*e.g.*, U.S. dollar and the Euro). The most widely used cryptocurrencies are BTC and ETH.

56. A “blockchain” is essentially a digitized, decentralized, public ledger that cryptographically records, preserves and presents information. The general idea is that each “block” contains information, such as details on transactions that are made. After a “block” is created (with cryptography so as to verify its contents), the information inside of it cannot be changed. The “block” then

1 becomes part of the “blockchain” and an encrypted version of the information  
2 contained therein becomes publicly available along with all the previous “blocks”  
3 in the chain. After this process is complete, then another block is created with  
4 additional information and so on and so forth.

5 57. To date, most “blockchains” are used to record transactions involving  
6 digital currencies (*e.g.*, BTC and ETH). However, a "blockchain" could be used to  
7 record all types of information. For example, a blockchain could be used for deed  
8 recordation/transfers or even transfers of stock certificates.

## 9 **B. Background on Coin Mining**

10 58. Coin mining is a process by which transactions are verified and  
11 added to certain public ledgers known as “blockchains,” and also one method  
12 through which certain new digital currencies are released.

13 59. Anyone with access to the internet and requisite hardware can  
14 participate in mining. The mining process involves compiling blocks and trying to  
15 solve a computationally difficult puzzle. Typically, the miner who first solves the  
16 puzzle gets to place the next block on the blockchain and claim a reward. The  
17 rewards, which incentivize mining, are typically both the transaction fees  
18 associated with the transactions compiled in the block as well as newly released  
19 digital currency that the participant has chosen to mine.

1           60.    With most digital currencies a miner chooses to mine, there is a finite  
2 amount of that particular digital currency that can ever exist. Despite this, coin  
3 miners are capable of reaping significant profit depending on the hardware and  
4 equipment they use to mine such digital currencies. This is because better  
5 hardware and equipment increases the likelihood that a miner will be the first to  
6 solve the computationally difficult puzzle and obtain the reward.

7           61.    Additionally, because operating high-end hardware and equipment  
8 for long periods of time requires the expenditure of a significant amount of  
9 electricity, its profitability is largely dependent on the cost of electricity where the  
10 mining operation is located.

11 **C.   The Giga Watt Project**

12           62.    In 2012, Carlson founded MegaBigPower, which was a megawatt-  
13 scale BTC mining center and purportedly “one of the largest single-operator mines  
14 in the world.” In approximately March 2017, Carlson rebranded MegaBigPower  
15 as Giga Watt, a blockchain hosting and servicing center for mining hardware. At  
16 the time Carlson rebranded MegaBigPower to Giga Watt, Giga Watt had  
17 completed the construction of three (3) mining facilities originally designed by  
18 MegaBigPower, consisting of 1 MW, 1 MW, and 0.25 MW. In October 2018,

1 Giga Watt announced that it had abandoned further construction of additional  
2 mining facilities.

3         63. According to the White Paper, the Giga Watt Project is a  
4 “partnership” between Giga Watt, Inc. and GigaWatt Pte. Ltd., pursuant to which  
5 Giga Watt, Inc. provides, *inter alia*, mining facilities and “turnkey mining  
6 services,” and GigaWatt Pte. Ltd sells the mining equipment used in Giga Watt’s  
7 mining facilities. The “standard turnkey solution” Giga Watt, Inc. would provide  
8 was described as:

9                 [P]urchase and delivery of mining equipment through its  
10                 Partner with its subsequent setup and hosting at Giga  
11                 Watt’s facilities in Wenatchee, WA, with hosting fees  
12                 starting as low as 7.5 USD cents/kW/hour, zero setup  
13                 fees (for equipment purchased through its Partner) and  
14                 uniquely low minimum facility entrance threshold of 1  
15                 miner of any model.

16         64. Despite Defendants’ representations that GigaWatt Pte. Ltd. is a mere  
17 “partner” of Giga Watt, Inc., upon information and belief, Carlson, Markin and  
18 Khaptakhaev own and operate GigaWatt Pte. Ltd. as a subsidiary of Giga Watt,  
19 Inc.

20         65. Giga Watt’s pricing structure for its standard turnkey solution  
consists of a one-time charge for the purchase of mining equipment and daily  
deductions for hosting services. These payments include electricity costs, a



1 maintenance fee, and a facility rent fee. Anyone who chooses to use their own  
2 mining equipment instead of the mining equipment Giga Watt offers gets charged  
3 the same hosting fees but is also charged an additional setup fee.

4         66. The purported technology that Giga Watt uses to provide its standard  
5 turnkey solution is what it calls “Giga Pod solution.” Giga Watt claimed that these  
6 Miners, or “Giga Pods,” were, *inter alia*, highly efficient, minimized costs “in  
7 every aspect of mining operations,” provided flexibility for “record-fast expansion  
8 of [their] capacity,” and “minimize[d] construction costs.”

9         67. Defendants boasted about Giga Watt’s mining technology and how  
10 purportedly efficient its Miners, housed in “Giga Pods,” were in an effort to  
11 collect as much money from investors as it could, with the promise that these  
12 investors would receive functioning and profitable Miners, WTT Tokens that  
13 would increase in value alongside the success of the Giga Watt Project, and/or that  
14 investors would be issued such tokens upon the development and completion of  
15 the Giga Pods/Miners. However, Defendants have abandoned the Giga Watt  
16 Project leaving the thousands of investors with worthless WTT Tokens, non-  
17 functioning or unprofitable Miners, and in many cases, nothing whatsoever.

18         68. Defendants have consistently failed to meet their obligations to  
19 investors and self-imposed deadlines for development of the Giga Watt Project.

1 For example, Giga Watt issued a press release on December 14, 2017 stating that  
2 some Batch 4 WTT Tokens would “fall outside the time frame of our original  
3 target maximum delivery date according to the whitepaper.”

4 69. Additionally, Giga Watt explicitly stated that “after 10pm UTC on  
5 July 24th, 2017” purchasers of WTT Tokens would be “entitled to a refund of”  
6 WTT Tokens purchased “in the original form of payment.” Whether such refunds  
7 were actually honored is not entirely clear. However, the fact that Defendants  
8 failed to fully accomplish the goals outlined in the White Paper and have generally  
9 been unsuccessful in managing the Giga Watt Project negatively affects all WTT  
10 Token holders, not only investors who have yet to receive their WTT Tokens.

11 70. Despite Defendants’ repeated failure to meet their obligations, Giga  
12 Watt continued soliciting the general public to invest in yet-to-be created Miners  
13 that would, purportedly, be delivered on a fixed schedule. Evidently, Defendants  
14 were more concerned with raising capital than actually developing and  
15 maintaining the Giga Watt Project.

16 71. In short, given that Giga Watt’s business plan has failed, contrary to  
17 what Defendants led every investor in the Giga Watt Project to believe, the WTT  
18 Tokens and Miners purchased are worthless (or in many cases, nonexistent).

1           72.    Giga Watt conveyed the release of each batch of WTT Tokens in its  
2 White Paper under the “Projected Construction Timeline,” which stated:

3                   3 units, 2.25 MW are available right now

4                   [Batch 1]

5                   - July 15, 2017: 1 Giga Pod completed, 0.75 MW

6                   [Batch 2]

7                   - August 1, 2017: 2 Giga Pods completed, 2.4MW

8                   - August 15, 2017: Expansion of the unit, 0.9 MW

9                   [Batch 3]

10                  - September 1, 2017: 3 Giga Pods completed, 4.5 MW

11                  [Batch 4]

12                  - September 15, 2017: 9 Giga Pods completed, 15 MW

13                  [Batch 5]

14                  - October 1, 2017: 3 Giga Pods completed, 4.5 MW

15                  [Batch 6]

16                  - November 15, 2017: 3 Giga Pods completed, 4.2 MW

17           73.    The “3 units, 2.25 MW” referred to as “available right now” were the  
18 three (3) mining facilities originally designed by MegaBigPower, consisting of 1  
19 MW, 1 MW, and 0.25 MW. As indicated above, these mining facilities were  
20 developed and functional prior to the Giga Watt ICO. In addition to the Giga Pods  
constructed at the Moses Lake Site and Pangborn, these three facilities are the

1 only Giga Pods that were fully developed and functional for investors to utilize.  
2 Thus, despite representing to investors that these Giga Pods would be built in the  
3 specified date listed, Plaintiffs, and other similarly situated investors, have been  
4 left with WTT Tokens and Miners that have little to no functional uses, minimal  
5 monetary value, and for some investors, the mere future right to receive WTT  
6 Tokens or Miners, which may never materialize.

7 **D. The Giga Watt ICO**

8 74. The Giga Watt ICO “Token Launch” consisted of a public offering of  
9 30 million WTT Tokens for \$1 to \$1.20 per WTT Token. The Giga Watt ICO ran  
10 between June 2, 2017 and July 31, 2017. The Giga Watt ICO had a minimum  
11 investment threshold of 1 WTT which was equivalent to \$1 to \$1.20. In May  
12 2017, Defendants released the White Paper which essentially highlighted the  
13 purpose and goals of the Giga Watt Project and the terms of the Giga Watt ICO.  
14 According to the White Paper, Giga Watt conducted a pre-sale between May 19,  
15 2017 and June 2, 2017, during which time investors were able to purchase WTT  
16 Tokens with a minimum entry threshold of 10,000 WTT Tokens, which is  
17 equivalent to \$10,000. Investors acquired WTT Tokens using cryptocurrencies  
18 (such as BTC and ETH) and fiat currencies (such as EUR and USD) via the ICO  
19 Website hosted by Cryptonomos. Upon information and belief, Cryptonomos is an  
20

1 affiliate of Giga Watt, as Andrey Kuzenny, the Chief Coordinator of Giga Watt, is  
2 also the co-founder of Cryptonomos. Moreover, Cryptonomos maintains the same  
3 business address and suite number as Giga Watt Pte. Ltd.

4         75. The White Paper described a WTT Token as “an Ethereum token  
5 representing the right to use the Giga Watt processing center's capacity, rent-free  
6 for 50 years, to accommodate 1 Watt's worth of mining equipment power  
7 consumption.” Thus, investors who wanted to use their mining equipment in Giga  
8 Watt’s mining facilities were encouraged to purchase the number of WTT Tokens  
9 equal to their equipment’s power consumption. Investors expected to receive a  
10 return on their investment in WTT Tokens or Miners in the following ways: (1)  
11 utilizing Miners to efficiently mine various cryptocurrencies; (2) utilizing the  
12 WTT Tokens to mine coins using Giga Watt’s Giga Pods; (3) renting out their  
13 WTT Tokens to other miners; and (4) or selling WTT Tokens on an online  
14 exchange that allows the trading of WTT Tokens. With respect to the ability to  
15 profit from investing in the Giga Watt Project, Cryptonomos responded as follows  
16 to a post made by a wary potential investor who feared the inability to “get out” of  
17 his investment:

18                 You can sell WTT tokens as soon as they go on  
19                 exchanges - we will announce exchange list later. Also,  
20                 you are able to use tokens for your own miners to save on  
                    hosting, as well as rent out tokens to other miners to get  
                    rental income. So there are a few way to make use of

1 WTT tokens, and by no means you are tied up to  
2 anything[.]

3 76. Additionally, the right to buy and host Giga Watt's mining equipment  
4 was purportedly exclusive to holders of WTT Tokens. In this regard, Giga Watt  
5 further enticed investors to purchase WTT Tokens when it announced in or about  
6 June 2017:

7 We are writing to you to announce an important and  
8 exciting change. Due to overwhelming demand for Giga  
9 Watt's equipment hosting services the Giga Watt project  
10 is discontinuing, for an indefinite period of time, the  
11 option of buying and hosting mining equipment for  
12 clients who do not own WTT tokens.

13 From now on, the orders to buy and host mining  
14 equipment are accepted only from the clients who, at the  
15 time of their equipment or hosting service order, already  
16 own WTT tokens, and the number of their WTT tokens is  
17 ample to cover the energy consumption of all the  
18 equipment or hosting service they are ordering.

19 77. Despite the foregoing, Defendants quickly abandoned this  
20 requirement in favor of raising additional investments from any individual or  
entity – regardless of the number of WTT Tokens they held.

78. Within the first three days of the Giga Watt ICO, Giga Watt's first  
two batches of WTT Tokens, equivalent to approximately \$6.3 million, and by the  
end of June 2017, Giga Watt had raised approximately \$11.8 million which was  
equivalent to more than 30% of its \$30 million goal. By the end of the Giga Watt

1 ICO, Giga Watt had raised approximately \$22.3 million and transferred the funds  
2 received by investors into an escrow account held by international law firm  
3 Perkins Coie LLP.

4 79. Giga Watt represented to investors that the WTT Tokens investors  
5 purchased would be released from escrow and issued to the investors upon the  
6 completion of the requisite Giga Pod facilities (and thus, Miners).

7 80. The one-sided terms imposed upon Plaintiffs and other investors in  
8 the Giga Watt ICO White Paper are both unconscionable and illusory. The Giga  
9 Watt White Paper purports to require agreement from the investors that, despite  
10 the investors' investments, Giga Watt might not allocate to the investors any WTT  
11 or mining equipment at all. Moreover, given Giga Watt's dire financial situation,  
12 Giga Watt seems unlikely to ever rescind or refund any investor's cryptocurrency  
13 investment – all while retaining the proposed class' invested funds and assets and  
14 while having released to themselves (*i.e.*, the Giga Watt insiders) additional WTT  
15 tokens merely for having procured the sale of undelivered investor tokens and  
16 machinery.

17 81. The onerous manner in which Giga Watt imposed upon investors its  
18 terms render the terms unfair, unconscionable, oppressive, and a contract of  
19 adhesion.

1 **E. The Giga Watt Project's Failure**

2 82. In early August 2018, two contractors filed liens against Giga Watt  
3 seeking approximately \$600,000 from the Company for services rendered in  
4 creating Giga Pods. During this same period, Giga Watt laid off 57 of its 70  
5 employees.

6 83. On August 15, 2018, Defendant Carlson “quietly resigned” from his  
7 position as CEO. In discussing Giga Watt’s financial situation at the time, Carlson  
8 was quoted as stating the Company was in “a temporary situation caused by a cash  
9 crunch” and that he believed the project still needed around “\$3 million to begin  
10 operation.” (Emphasis added.)

11 84. Many of these facts were not publicly revealed until *The Wenatchee*  
12 *World*’s September 26, 2018 article entitled: “Giga Watt hits ‘bump in the road’ |  
13 Carlson steps down, staff trimmed to 13 from 70.” The article addressed the fact  
14 that Giga Watt’s financial situation was dire. For example, Giga Watt had been in  
15 default on certain obligations and late on lease payments on four different lots for  
16 the first time in August and September 2018.

17 85. In discussing Giga Watt’s financial situation, the Company’s interim  
18 CEO acknowledged the unsustainability of the Giga Watt Project’s business  
19 model by stating:  
20



1 “We had a business model in place which had not  
2 accounted for the unpredictability of human nature in the  
3 face of a volatile cryptocurrency market,” he said. “We  
4 are changing that business model to one which will be  
5 sustainable for us, while still taking care of our  
6 obligations to our clients and shareholders.”

7 86. On October 1, 2018, Giga Watt published a “letter” from its interim  
8 CEO to investors in the Giga Watt Project which essentially conveyed  
9 Defendants’ abandonment of the Giga Watt Project altogether. This letter read, in  
10 relevant part:

11 **Giga Watt Restructuring and Policy Changes**

12 To: Giga Watt Clients and Watt Token Holders

13 I’m certain you have all read or heard the news about  
14 leadership changes, layoffs, and the general shakeup here  
15 at Giga Watt . . .

16 I believe that we can still make this company work for all  
17 of us; owners, clients and employees alike. That is why I  
18 am still here, and why our remaining team is working  
19 long hours to drive things forward. We believe that Giga  
20 Watt can succeed. We believe that it can be saved and  
that we are the team to do it.

We have a two-part plan to save the company in the  
immediate and short-term, and then to transition to a  
more sustainable and mutually profitable business model  
in the longer term. The immediate plan involves drastic  
cuts in corporate spending (you saw the first step in the  
form of layoffs last week), as well as steps to increase  
revenues to meet our financial obligations.

Among the immediate steps toward both ends are:

- Renegotiate all corporate rentals and purchasing plans, to include office spaces and any other non-GW sites/equipment, or drop them altogether
- Move our remaining people into smaller facilities, which will save money and help reduce communication times among varying functions
- Temporarily raise rates for WTT holders to 6 cents per kW hour
- Use non-GW facilities that we have access to in order to run miners for GW, as a source of direct revenue

The temporary increase in WTT fees will likely be the point of greatest concern for you, and it was for us as well. In the spirit of transparency that I mentioned earlier, we believe it is unavoidable if we wish to continue operating as a company. The choice before us and you are either to make sacrifices and difficult choices now and thereby preserve the company, or continue operations as they had been before, and follow that unsustainable path to failure.

\*\*\*

**Note:**

**Please be advised that specific policies will be published this week relative to WTT, rate changes, negative accounts, disconnected miners, equipment maintenance and shipping.**

87. To summarize, Giga Watt suspended further construction of the Giga Pods and raised rates for WTT Token holders – stripping away what little value WTT Tokens had entirely -- essentially abandoning the Giga Watt Project

altogether. Thus, as of the date of this filing, numerous investors have yet to receive their WTT Tokens and/or Miners and are likely never to receive either.

88. More recently, on October 18, 2018, Defendant Giga Watt announced one of its new business models in the following post on its official Facebook page:

Dear all, we at Giga Watt are pleased to announce the start of our Private Pod sales to individuals. A stand-alone real estate unit, one Giga Pod can host up to 1.5 Mwt worth of miners. Located in the state of Washington, up in the Wenatchee National Forest mountains, Giga Watt's facilities enjoy some of the least expensive electric power tariffs in the continental United States. A Giga Pod is a perfect hosting solution for larger mining customers looking for their own mining-centric data centers. If you want a separate Giga Pod all for yourself, we would love to hear from you at [ak@giga-watt.com](mailto:ak@giga-watt.com)

89. Evidently, the new strategy appears to be an attempt to sell the few mining facilities Giga Watt actually created as a way to recoup funds which would then, presumably, be used to pay the approximately \$5 million in debt with which Giga Watt is reportedly saddled.

90. The Giga Watt Project's failure was foreshadowed by continuous delays to the Giga Watt Project. For example, Giga Watt issued a press release on December 14, 2017, which stated:

Despite our best efforts, the delivery of the final portion of the Batch 4 WTT will fall outside the time frame of

1 our original targeted maximum delivery date according to  
2 the whitepaper.

3 Batch 4 tokens that were purchased before 10pm UTC on  
4 July 24th, 2017, will be issued on 25th December, 2017.

5 Any WTT that were purchased after 10pm UTC on July  
6 24th, 2017, are expected to be delayed. It is estimated  
7 that the power for these tokens will be ready by the end  
8 of February, at which time we should be able to issue  
9 your WTT. If your tokens were bought after 10pm UTC  
10 on July 24th, 2017, you are entitled to a refund of your  
11 WTT tokens in the original form of payment, and will  
12 receive the USD amount that was paid when the tokens  
13 were bought.

14 As gratitude for your continued patience, we'd like to  
15 offer token holders who purchased their tokens after  
16 10pm UTC on July 24th, 2017, a bonus of 10%  
17 additional tokens.

18 We are making good progress, but it hasn't been easy!

19 If you plan to hold, we will issue your 10% bonus tokens  
20 automatically.

If you plan to hold, we will issue your 10% bonus tokens  
automatically. Please email all refund related inquiries to:  
refund@cryptonomos.com

91. Despite massive delays in the construction of Giga Pods resulting in  
numerous investors not receiving their WTT Tokens, Defendants already reserved  
and/or issued 15 WTT Tokens to themselves and their affiliates for every 100  
WTT Tokens sold in the Giga Watt ICO. This means that if \$22.3 million was  
raised by the Giga Watt ICO, and WTT Tokens were purportedly sold for

1 approximately \$1.00 each, Giga Watt members and affiliates have reserved/issued  
2 themselves approximately \$3.4 million worth of WTT Tokens.

3 92. Not only had Defendants failed to meet the timeline it represented,  
4 but even when they finally delivered Miners and Giga Pods, the quality of such  
5 Miners has been found lacking. Investors have made numerous public statements  
6 that Giga Watt's Miners have repeatedly broken down or did not perform as  
7 advertised. Given the facts that investors purchased Miners to attain profit mining  
8 cryptocurrency and the value and use of WTT Tokens is tied to Defendants'  
9 ability to create and manage the Giga Watt Project, all investors in the Giga Watt  
10 Project have been negatively affected by such failures.

11 **F. WTT Tokens and Miners Constitute "Investment Contracts"**

12 93. Defendants raised capital to develop the Giga Watt Project by  
13 participating in the offer and sale of WTT Tokens and the Miners. Similarly, the  
14 value of Miners has at all times been dependent on whether Defendants could  
15 create and maintain the Miners and thus launch the Giga Watt Project. Likewise,  
16 the value of WTT has at all times been dependent of whether Defendants could  
17 successfully create and manage the Giga Watt Project.

18 94. The Giga Watt Project has at all relevant times been developed,  
19 operated, and maintained by the Defendants. Given that the offer and sale of WTT  
20

1 Tokens and Miners was conducted by Giga Watt through a website run by  
2 Cryptonomos (a likely affiliate of Giga Watt), it is indisputable that Cryptonomos  
3 was instrumental in orchestrating and operating the Giga Watt ICO. Similarly,  
4 Carlson, as the CEO and founder of Giga Watt; and Markin and Khaptakhaev as  
5 founders of Giga Watt and Cryptonomos, clearly controlled and orchestrated Giga  
6 Watt's actions in offering and selling WTT Tokens and the Miners.

7 95. Under the federal securities laws, the definition of a security includes  
8 an "investment contract." Plaintiffs' and the Class' investments of  
9 cryptocurrencies (such as BTC and ETH) and fiat currencies constitute an  
10 investment of money in an "investment contract."

11 96. When determining whether a security has been offered and sold, the  
12 focus must be on the economic realities underlying the transaction. Here, the  
13 economic realities are that Plaintiffs and the Class invested their digital currencies  
14 and fiat currency in order to receive Miners that would be serviced and maintained  
15 by Giga Watt and used to profit from mining various cryptocurrencies and/or  
16 WTT Tokens, which Plaintiffs and the Class reasonably expected would generate  
17 a profit in multiple ways. More specifically, the Miners and/or WTT Tokens were  
18 expected to provide value by way of using them to mine cryptocurrencies/digital  
19 currencies, trading then WTT Tokens for profit, or lending the tokens to others to  
20

1 mine cryptocurrencies/digital currencies. Such economic value to be received by  
2 Plaintiffs and the Class has at all times been entirely dependent on the  
3 Defendants' technical and managerial efforts to fully develop and launch the Giga  
4 Watt Project.

5 97. Further, Plaintiffs and the Class invested in the common enterprise  
6 that is the Giga Watt Project. That is, investments in Miners and WTT Tokens  
7 were pooled under the control of the Defendants, and the success of the Giga Watt  
8 Project—and thus the potential profits stemming from the efficiency and  
9 effectiveness of Giga Watt's Miners, which was expected to ultimately effect the  
10 value and utilization of WTT Tokens—was entirely reliant on Defendants'  
11 actions.

12 98. Accordingly, any success from creating the Miners and the WTT  
13 Token and future potential profit from operating the miners or increases to the  
14 WTT Token's value were entirely dependent on Defendants' actions.

15 99. Furthermore, Defendants were fully aware that they were selling  
16 unregistered securities and depriving public investors of their rights and  
17 protections under the federal securities laws. Indeed, as Carlson stated during an  
18 interview, Defendants had “been working very hard to come up with a product or  
19  
20

1 service that gives **anyone — not just accredited investors** — access to our  
2 blockchain processing facility infrastructure.” (Emphasis added.)

3 100. Astoundingly, despite the fact that Defendants deprived Plaintiffs and  
4 the Class of their rights and protections under the federal securities laws, they  
5 even attempted to protect themselves using the safe-harbor protections for  
6 registered issuers providing “forward-looking statements” under these same laws.  
7 For example, the Giga Watt White Paper included a “Legal Disclaimer” which  
8 stated “[c]ertain statements, estimates and financial information contained in this  
9 White Paper constitute forward-looking statements or information.” Unfortunately  
10 for Defendants, such safe-harbors are not available for issuers selling unregistered  
11 securities. Evidently, Defendants were attempting to reserve protections for  
12 themselves under the federal securities laws whilst simultaneously depriving  
13 Plaintiffs and the Class their rights and protections under the same laws. Such  
14 actions demonstrate the clear inequity of Defendants actions in connection with  
15 the offer and sale of WTT Tokens and Miners throughout the Class Period.

16 **G. Necessity for Judicial Intervention**

17 101. On July 25, 2017, the SEC issued a report on “the DAO,” which  
18 offered tokens for sale online, in which the SEC advised those using “distributed  
19 ledger or blockchain-enabled means for capital raising, to take appropriate steps to



1 ensure compliance” with the federal securities laws, and stated that “[a]ll  
2 securities offered and sold in the United States must be registered with the  
3 Commission . . .” or qualify for an exemption from registration. On the same day,  
4 the SEC issued an investor bulletin urging caution when investing in ICOs and to  
5 be mindful that promoters and initial sellers that lead buyers of tokens to expect a  
6 return on their investment or participate in shared returns provided by the project  
7 may be offering a security for sale.

8       102. On September 29, 2017, the Wall Street Journal reported Chairman  
9 Clayton as stating “I have yet to see an ICO that doesn’t have a sufficient number  
10 of hallmarks of a security.” This statement sums up the core issue here quite  
11 succinctly. Digital currencies are a relatively new phenomenon and various parties  
12 are taking advantage of the time it takes for regulatory agencies to address new  
13 developments to engage in unlawful conduct with near impunity, as Defendants  
14 have here by raising tens of millions of dollars with promises of profits and  
15 income-generating opportunities stemming from supposedly efficient mining  
16 facilities, many of which have yet to materialize.

17       103. Defendants have promoted the Giga Watt ICO, and thus the Giga  
18 Watt Project, by making claims that the value of WTT Tokens was likely to  
19 significantly increase and repeatedly stressing the multiple ways investors could  
20

1 “make use” of WTT Tokens to generate income and profit. The value of WTT  
2 Tokens was at all times expected to result from Defendants’ ability to create low-  
3 cost, efficient, “Giga Pods” containing Miners that would efficiently and  
4 profitably mine cryptocurrency/digital currency (*i.e.*, run the Giga Watt Project).  
5 Plaintiff and the Class believed Defendants’ timeline for the construction of these  
6 Giga Pods and Miners and their expectations of what profit would be made from  
7 operating the Miners and what the WTT Tokens would be worth were, in large  
8 part, based on the veracity of such representations. However, Defendants have  
9 failed to establish the Giga Watt Project.

10 104. Further, given the significant nature of such failure it is reasonable to  
11 infer that Defendant’s knew, or should have known, that their ability to create the  
12 Giga Watt Project was farfetched and the timeline used to solicit investments was  
13 unrealistic. Indeed, had Defendants’ registered their securities they likely would  
14 have thought twice, and then a third time, about ensuring they solicited  
15 investments using more realistic business plans and timelines. Moreover, had  
16 Defendants registered their offering, the SEC would have reviewed their issuing  
17 documents for, among other things, logical inconsistencies such as unrealistic  
18 timelines for massive construction projects, prior to such documentation being  
19 approved for use in soliciting public investments. However, Defendants

1 consciously chose not to register the Giga Watt ICO or the WTT Tokens and their  
2 unlawful conduct in offering and selling unregistered securities in connection with  
3 the Giga Watt ICO has harmed Plaintiff and the Class. Nevertheless, as noted,  
4 Defendants' reasoning or apparent willful deprivation of investors' protections is  
5 immaterial as Plaintiffs' claims provide for strict liability.

6 105. Investors like Plaintiffs and the Class have already been wrongfully  
7 deprived of the protections of the federal securities laws by Defendants.  
8 Fortunately, the private right of action provided for by Section 12(a)(1) of the  
9 Securities Act was created for just this type of situation, and provides strict  
10 liability for the sale of unregistered securities.

## 11 VI. CLAIMS FOR RELIEF

### 12 COUNT I

#### 13 **Claim For Violation Of Section 12(A)(1) Of The Securities Act 14 Against All Defendants**

15 106. Plaintiffs repeat and re-allege the preceding allegations as if set forth  
16 herein.

17 107. Section 12(a)(1) grants Plaintiffs a private right of action against any  
18 person who offers or sells a security in violation of Section 5 and states that such  
19 person

20 [S]hall be liable . . . to the person purchasing such  
security from him, who may sue either at law or in equity  
in any court of competent jurisdiction, to recover the

1 consideration for such security with interest thereon, less  
2 the amount of any income received thereon, upon the  
3 tender of such security, or for damages if he no longer  
4 owns the security.

5 108. From May 19, 2017 through October 2, 2018, in connection with  
6 Giga Watt ICO and public sale of Miners, Defendants unlawfully made use of  
7 means or instruments of transportation or communication in interstate commerce  
8 or of the mails for the purposes of offering, selling, or delivering unregistered  
9 securities in direct violation of the Securities Act. Specifically, Giga Watt, Inc.,  
10 Giga Watt Pte. Ltd., Carlson, Markin, and Khaptakhaev conducted the Giga Watt  
11 ICO and offer and sale of Miners through Cryptonomos Pte. Ltd.'s website.

12 109. The offer and sale of WTT Tokens and Miners constituted the offer  
13 and sale of unregistered securities under controlling federal law. WTT Tokens and  
14 Miners exhibit the following particular hallmarks of a security under the Howey  
15 test: (a) in order to receive any WTT Tokens or Miners, an investment of money,  
16 in the form of BTC, ETH, and/or fiat currencies was required; (b) the investment  
17 of money was made into the common enterprise that is Defendants' Giga Watt  
18 Project and; and (c) the success of the investment opportunities and any potential  
19 returns thereon were entirely reliant on Defendants' ability to provide and  
20 maintain functional, and cost effective, Miners.

1 110. As such, Defendants have participated in the offer and sale of  
2 unregistered securities in violation of the Securities Act and are liable to Plaintiffs  
3 and the Class for rescission and/or compensatory damages.

4 **COUNT II**  
5 **Claim For Violation Of Section 15(A) Of The Securities Act Against**  
6 **The Individual Defendants**

7 111. Plaintiffs repeat and re-allege the preceding allegations as if set forth  
8 herein.

9 112. Due to their ownership in and/or control over Defendant Giga Watt,  
10 Inc., Defendant Carlson and Defendants Markin and Khaptakhaev's ownership in  
11 and/or control over Defendant Giga Watt and/or Cryptonomos, each acted as a  
12 controlling person of Giga Watt or Cryptonomos within the meaning of Section  
13 15(a) of the Securities Act as alleged herein.

14 113. By virtue of Defendant Carlson's position as the founder and CEO of  
15 Giga Watt, Inc. and Markin and Khaptakhaev's positions as founders of Giga  
16 Watt and/or Cryptonomos, and participation in and/or awareness of Defendant  
17 Giga Watt's operations, the Individual Defendants had the power to influence and  
18 control and did influence and control, directly or indirectly, the decision making  
19 relating to Giga Watt's solicitation of investments in the Giga Watt Project,  
20

1 including the decision to engage in the sale of unregistered securities in  
2 furtherance thereof.

3 114. By virtue of the foregoing, the Individual Defendants are liable to  
4 Plaintiffs and the Class as control persons of Defendants Giga Watt and/or  
5 Cryptonomos under Section 15(a) of the Securities Act.

## 6 **VII. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs pray for judgment and relief as follows:

8 A. Declaring that this action is properly maintainable as a class action  
9 and certifying Plaintiff as the Class representative and his counsel as Class  
10 counsel;

11 B. Declaring that Defendants offered and sold unregistered securities in  
12 violation of the federal securities laws;

13 C. Declaring Defendants are liable to Plaintiffs and the Class under  
14 Sections 12(a)(1) and/or 15(a) of the Securities Act;

15 D. Preliminarily enjoining Defendants from making further transfers or  
16 dissipations of the investments raised from the offer and sale of WTT Tokens in  
17 connection with the Giga Watt ICO, or using such funds in any further purchases  
18 or transactions;

1 E. Requiring an accounting of the funds and assets raised from Plaintiffs  
2 and the Class in connection with the Giga Watt ICO;

3 F. Imposing a constructive trust over the funds and assets rightfully  
4 belonging to Plaintiffs and the Class;

5 G. Ordering rescission of the investments made by Plaintiffs and the  
6 Class relating Giga Watt ICO and/or compensatory damages;

7 H. Awarding Plaintiffs the costs of this action, including reasonable  
8 allowance for Plaintiff's attorneys' and experts' fees; and

9 I. Granting such other and further relief as this Court may deem just  
10 and proper.

11 **VIII. JURY DEMAND**

12 Plaintiff respectfully requests a trial by jury on all issues so triable.

13 DATED: October 24, 2018.

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17 *Mark Moss*



CERTIFICATE OF SERVICE

I hereby certify that on this date I filed the foregoing document with the Clerk of the Court using the court's ECF filing system which will automatically serve the filing on registered ECF users.

DATED October 24, 2018, at Seattle, Washington.

s/Leslie Boston  
Leslie Boston